



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

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June 12th, 1995

Minutes of the June 12th, 1995 meeting of the Commission held in the Father Lemire Room of St. Paul's Center, 136 State Street, Augusta, Maine.

Present: Chairman Robert P. McArthur; Members John D. Devine, Nathan L. Grass, Nelson Madore, Trish A. Riley, Robert E. Tierney, Richard L. Trafton, Peter B. Webster; Counsel Cab Howard; Director Marilyn Canavan

Absent: Member Paul E. Viclette

The meeting was called to order at 9:25 a.m. The minutes of the March 13th, 1995 meeting were then approved as written.

First, under new business, the Commission considered the requests of the following lobbyists for forgiveness of late penalty fees:

Name of lobbyist/ employer	Date reports due	Date report filed	Penalty incurred	Recommended
Michelle Gardner conifer Industries	12/30/94 (annual)	1/24/95	\$200	waive
Kenneth Dietrich AFSCM7 Council	4/18/95	4/26/95	\$100	Waive
Kenneth MacLeod Blue Cross/Blue Shield ITW Hi-Cone ME Pharmacy Assoc.	4/18/95	4/19/95	\$300	\$300
George Smith Sportsman's Alliance of Maine	5/15/95	5/16/95	\$100	\$50

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Chairperson McArthur inquired as to whether anyone present wished to address the commission concerning a late report, whereupon Mr. Kenneth MacLeod asked to be recognized. He explained that he was unable to meet the deadline because he was ill and confined to his home during the reporting period, and had no reporting forms. Mr. Trafton then moved, and Madore seconded, that the Commission forgive 50 percent of the penalty incurred by Mr. MacLeod. The motion was seconded and voted, Messrs. Devine, Tierney and Webster abstaining.

On the basis of staff findings, Mr. Webster then moved, and Mr. Trafton seconded, to waive the penalties incurred by Ms. Gardner and Mr. Dietrich, and to assess Mr. Smith a penalty of \$50. The motion was voted unanimously.

Next, it was moved, seconded, and voted to table consideration of Mr. Jeffrey Kaelin's late disclosure report until the next regular meeting, pursuant to Mr. Kaelin's request for a continuance.

The Commission then reviewed the complaint of Mr. Bill Sneed against registered lobbyist Eaton, Peabody, Bradford, and Veague, PA (EPBV) and its client, the Searsport Water District (SWD) in which questions were raised about the timeliness and accuracy of EPBV/SWD's lobbyist registration and reports.

As part of its review, the Commission examined the following documents:

- 1) EPBV invoices showing that the firm had lobbied for SWD in December 1994 and
- 2) Staff findings which showed that EPBV/SWD had registered on February 2nd, 1995; that the firm had listed January 24th, 1995 as the date lobbying commenced; and that the Firm later amended the Commencement date, using instead the date on which EPBV had met the 8-hour qualification under 3 M.R.S.A. Section 312-A(10).

Discussion revolved around 3 M.R.S.A. Section 313 which requires that lobbyists register no later than 15 business days after the commencement of lobbying. Counsel Howard advised the Commission that its first task was to determine whether the 15-day window starts on the commencement date of "lobbying," as defined in 3 M.R.S.A. Section 312-A(9), or on the date a person becomes a lobbyist as defined in Section 312-A(10).

On the advice of counsel, Mr. Tierney moved and Mr. Madore seconded, that the Commission henceforth use as a reference point in determining the timeliness of a registration, the shout rule contained in Section 312-A.(10); i.e., the date on which a person becomes a lobbyist. The motion was voted and passed unanimously

Next, for purposes of determining whether or not EPBV had passed the 8-hour lobbying mark during the month of December, the Commission examined a summary provided by EPBV, detailing the firm's activities on behalf of SWD for the month of December. In the discussion that followed, questions were raised as to whether the definition of lobbying contained in 3 M.R.S.A. Section 312-A(9) includes activities such as internal discussions and conferences concerning legislation. Mr. Trafton moved that the Commission adopt, as a matter of policy, the



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premise that such activities do not fit within the legal meaning of lobbying. The motion failed, there being no second motion. At that point, Mr. Tierney moved that the Commission adopt, as a matter of policy, the assertion that the term "lobbying" contained in 3 M.R.S.A. Section 312-A(9) includes internal discussions and conferences dealing with legislation and legislative strategy. He further moved that the Commission find that EPBV had registered late, the firm having constructively reached the 8-hour lobbying mark in December. Ms. Riley seconded the motion. Mr. Webster then pointed out that EPBV had not been given an opportunity to review its invoices to ascertain whether changes were in order pursuant to the Commission's ruling; that hence, it remained to be seen whether EPBV had exceeded the 8-hour threshold that triggers registration. Mr. Tierney then withdrew the second part of his motion and moved instead that the Commission direct EPBV to examine its records; to revise its summary where applicable, identifying all activity that fits within the meaning of 3 M.R.S.A. Section 312-A(9), as elucidated in the first part of the pending motion; and to submit the revision to the commission prior to the next meeting. The motion was voted 5-1-1, Mr. Trafton opposing, Mr. Madore abstaining.

The Commission then considered the late registrations of political action committees (PAC). First, the Commission reviewed the staff findings concerning Citizens for Safe Emissions PAC (CSE) which showed that CSE conducted its first transaction on July 26th, 1994; that it did not register until January 26th, 1993. Mr. Richard Verville was present and represented CSE. He explained that the Members of the CSE simply did not know at the outset that CSE was a PAC; that the Committee is a grass roots organization comprised of average citizens with few financial resources and little knowledge of the political process. Thereupon Mr. Trafton moved and Mr. Madore seconded, to waive the penalty. The motion was voted unanimously.

The Commission then turned to the late registration of Maine Taxpayers Action Network Political Action Committee (M.T.A.N). The Commission voted unanimously to table the item at the request of the treasurer, Carol Palesky, who had written that she was unable to attend because of illness. Thereupon, the staff was directed to advise Ms. Palesky to appoint a representative if she cannot attend the next meeting.

Next, the commission reviewed the complaints of Linda Bean Folkers against Concerned Maine Families Political Action Committee (CMF), the first of which was dated April 21st, 1995 and the second dated June 5th, 1995. In each, it was alleged that CMF had falsely @o YS. L Kers. Ms. Riley attributed a campaign contribution Foil moved, and Mr. Webster seconded, to accept the staff recommendation calling for an audit of CMF's finance reports for the period covering July 5th, 1994 through June 12th, 1995. Mr. Tierney questioned the need for a full blown audit, asserting that the entries in question might well be attributable to simple error. Ms. Riley contended that an audit was in order because CMF had failed to offer a satisfactory explanation for the discrepancies in its reports. At that point, Ms. Canavan explained that PACs are required by law to maintain careful records of all committee transactions; that hence, an audit should not be unduly burdensome and might serve to clear the air. Mr. Trafton objected to the use of the term "audit" in the notion; whereupon, Ms. Riley agreed to substitute the phrase "report verification" for the -word "audit" in the motion. The amended motion was then voted and passed unanimously.



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Next, a motion was made to remove from the table the late pre-election reports of state and county candidates. At the recommendation of the staff, it was moved, seconded, and voted to forgive the penalty of Patricia Van Orman on the basis of findings which showed she had spent very little on her campaign; that her funds were depleted; and that she had filed only one day late. A motion was then made, seconded, and voted to assess the following penalties pursuant to staff recommendations which take into account the amount collected/spent by the candidate and the number of days the report was filed late:

	<u>Penalty accrued</u>	<u>Recommended</u>
James Atwood	\$50	\$25
Michael Brown	\$400	\$80
David Carpenter	\$150	\$150
Christopher Cimino	\$200	\$200
William F. Clark	\$50	\$0
Robin H. Clifton	\$100	\$20
James Donnelly	\$100	\$100
Albion Goodwin	\$50	\$50
Dana Hanley	\$50	\$50
Lloyd Herrick	\$50	\$50
George Hutchings	\$50	\$50
Michael Labrecque	\$550	\$0
Patrick Larsen	\$50	\$50
Robert Philbrick	\$50	\$50
Clinton Phinney	\$100	\$100
Reynold J. Raymond	\$250	\$0
Steven Ridlon	\$50	\$50
Jerry Savitz	\$150	\$30
Mark Schinzel	\$150	\$150
Harry C. True	\$200	\$100
Jean J. Watson	\$50	\$0
Neal Weinstein	\$1,000	\$0

At that point, the commission voted unanimously to enter into executive session to review a complaint in which it was alleged that a Legislator had violated the conflict of interest law. At the conclusion of the session, the commission directed the staff to inform the subject of the complaint that the Commission would provide her with an advisory opinion concerning the issues raised in the complaint should she so desire.

Next, under old business, it was moved, seconded, and voted to remove from the table a request by the staff for guidance as to whether a Legislator must disclose separately in his/her income statement each source of income of \$1,000 or more derived from a self-directed T-P-k account. After a brief discussion, the members arrived at the consensus that each source must be reported as a separate item; whereupon it was so moved, seconded, and voted.

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The Commission then considered a staff request for guidance as to whether the terms "business" and "corporation" are interchangeable in the context of 1 M.R.S.A. Section 1016-A, which requires Legislators to report the name and address of the Legislator's business. The Commission concluded that the terms are not synonymous for reporting purposes; that even where an individual has ownership in a corporation that individual is, in effect, employed by another person and therefore must resort under 1 M.R.S.A. Section 1016-A (l) (A) ; whereas an individual who exercises control over an unincorporated business is self-employed and must report under 1 M. R. S.A. Section 1016-A (1) (B) .

Next, the Commission considered the question whether a Legislator may accept a campaign contribution if he/she is prohibited under the term limit law from seeking the same office in a subsequent elections a motion was made to accept a staff recommendation that the Commission adopt, as a matter of policy, the assertion that funds given to a Legislator who has paid all of his/her campaign debts, and has served 8 years in the same office and has not registered as a candidate for a different office, are considered a gift, not a campaign contribution; that if the Legislator plans to run for any office other than the one he/she currently holds, the Legislator is required to register in accordance with the requirement's of 21-A M.R.S.A. Section 1013-A before accepting any contributions or making any expenditures. The Section was seconded and voted. Finally, it was moved, seconded, and voted to grant the request of Ms. Canavan that both she and Ms. Jones be permitted to attend the annual COGET, conference to be held in Washington, D.C. this September.

The members then agreed upon July 24th, 1995 as the next meeting date.

The meeting was adjourned at 12:15 p.m.

Sincerely,

Marilyn Canavan
Director